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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|--|-------------|----------------------|------------------------------|------------------|
| 10/629,540 | 07/30/2003 | David J. Sneeringer | 112325.123US2 | 6502 |
| 28089 | 7590 | 10/04/2006 | EXAMINER BORISSOV, IGOR N | |
| WILMER CUTLER PICKERING HALE AND DORR LLP 399 PARK AVENUE NEW YORK, NY 10022 | | | ART UNIT 3639 | PAPER NUMBER |

DATE MAILED: 10/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/629,540

Applicant(s)

SNEERINGER, DAVID J.

Examiner

Igor Borissov

Art Unit

3639

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-52 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-52 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- A. Claims 1-19 and 32-52, drawn to a system and method for monitoring or resource usage, classified in class 705, subclass 412.
- B. Claims 20-24, drawn to a method of subscribing information services, classified in class 705, subclass 1.
- C. Claim 25 drawn to a method for purchasing resources, classified in class 705, subclass 26.
- D. Claim 26, drawn to a method for determining whether maintenance is required for the energy generating equipment, classified in class 700, subclass 286.
- E. Claims 27-30, drawn to a real-time rate analysis pricing system for a resource, classified in class 705, subclass 400.
- F. Claim 31, drawn to a computer system for monitoring resource meters over a telephone network, classified in class 379, subclass 106.03.

Inventions A, B, C, D, E and F are related as subcombinations disclosed as usable together in a single combination. Inventions in this relationship are distinct if it can be shown that (1) the combination as claimed does not require the particulars of the subcombination as claimed for patentability, and (2) that the subcombination has utility by itself or in other combinations (MPEP 806.05(c)).

In the instant case, the invention A as claimed does not require the particulars of the invention B such as: *(c) subscribing, one of periodically and aperiodically, to the published resource usage data, using at least one global computer network server.*

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

In the instant case, the invention A as claimed does not require the particulars of the invention C such as: *(f) purchasing the resources responsive to the aggregated resource usage data for said plurality of remotely located resource consuming devices.*

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

In the instant case, the invention A as claimed does not require the particulars of the invention D such as: *(c) determining whether maintenance is required for the specific resource responsive to the energy use of the specific resource.*

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

In the instant case, the invention A as claimed does not require the particulars of the invention E such as: *rate analysis software means for implementing rate comparison with variable rate structures and pricing options.*

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

In the instant case, the invention A as claimed does not require the particulars of the invention F such as: *a plurality of resource meters, operatively connected to a plurality of remotely located resource consuming devices and to an internal computer network via at least one of recorder translator, network server, dialer and applications server, said plurality of resource meters connectable to at least one of a public switched telephone network and a wireless network.*

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction

for examination purposes as indicated is proper.

Should applicant traverse on the ground that the submitted claims are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the claims to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a petition under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Due to the complexity of the case, applicant is being afforded the courtesy of a written response.

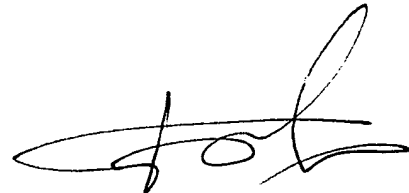
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Igor Borissov whose telephone number is 571-272-6801. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W. Hayes can be reached on 571-272-6708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

IB

9/20/2006

A handwritten signature in black ink, appearing to read 'Igor N. Borissov', with a stylized, flowing script.

IGOR N. BORISSOV
PRIMARY EXAMINER